THE

TRYAL

OF

THOMAS THOMSON

AND

LAVINIA WHITNEY,

On an Indictment for a Conſpiracy, in procuring one *William Gibſon*, a Sawyer, to perſonate Mr. *Samuel Brooks*, an eminent Grocer, and marry the ſaid *Whitney*, in his (the ſaid *Brooks)* Name, with a View and Intent to ſubject him to the Payment of her Debts, and force him to allow her a ſeparate Maintenance.

Try'd at GUILDHALL,

ON

MONDAY the 2*d* Day of *November*, 1730,

Before the Right Honourable *Humphry Parſons*, Eſq; Lord-Mayor of the City of *London*; the Hon. Mr. Baron *Thompſon*, Recorder of the ſaid City; and other his Majeſty's Juſtices, at an Adjournment of the Seſſions of Oyer and Terminer.

LONDON:

Printed for T. PAYNE, at the *Crown* in *Ivy-Lane*, near *Pater-Noſter Row*, 1730. (Price Four-pence.)

Before the Right Hon. [illegible]
Lord-Mayor of the City [illegible]
Mr. Baron Thomson, [illegible]
and other his Majesty's [illegible]
ment of the Sheriffs of [illegible]

Printed by T. Reynolds, [illegible]
Near [illegible]

The TRYAL of *Thomas Thomſon* and *Lavinia Whitney* for a Conſpiracy, &c.

The Names of the COUNCIL

For the Proſecutor,	For *Thomſon*,	For *Whitney*.
Mr. Serjeant DARNELL	*Mr. Serj.* HAWKINS	*Mr. Serj.* EYRE
Mr. Serjeant URLIN	*Mr.* THEED.	*Mr.* COXITER.
Mr. STRANGE		
Mr. TIM. BARNARDISTON.		

The JURY's *Names.*

RICHARD SAY	EDWARD FROME
JOHN CLARKSON	THOMAS TEMPLEMAN
HUMPHRY PUGH	JOSEPH BAILEY
JOSEPH CLARKE	EDWARD DOLLER
THOMAS HOWES	WILLIAM HILL
WILLIAM DOVEY	JOHN BARNES.

THE Jury being ſworn, Mr. *Barnardiſton* open'd the Indictment, which ſet forth, That the Priſoners ſtood indicted at the Suit of our Sovereign Lord the King, for a Miſdemeanor and Conſpiracy, in procuring one *William Gibſon*, a Sawyer, to take upon him the Name of *Samuel Brooks*,

and in his Name to marry the ſaid *Whitney*, at the Houſe of *Richard Ball*, within the Rules of the *Fleet-Priſon*, on the 31*ſt* Day of *Auguſt*, 1729, in order to oblige the ſaid *Samuel Brooks* to pay the Debts of the ſaid *Whitney*, and force him to allow her a Maintenance; contrary to the Peace of our Sovereign Lord the King, his Crown and Dignity.

To which Indictment the Priſoners had pleaded, *Not Guilty.*

Mr. Serjeant *Darnell*, Mr. Serjeant *Urlin*, and Mr. *Strange*, in a very eloquent manner open'd the Nature and Heinouſneſs of the Offence committed by the Priſoners, which tended to the Deſtruction of all civil Society: That if ſuch Crimes were ſuffer'd to go unpuniſhed, it would be in the Power of any wicked, vile, deſigning Perſons at any time to forge a Marriage on any Gentleman, and oblige him or his Relations to provide for her, let her be ever ſo extravagant or diſſolute; and to prove the Priſoners guilty of the Indictment, called the following Witneſſes.

Richard Ball depoſed, That he keeping a Houſe whereat Marriages were cuſtomarily celebrated, within the Liberty of the Rules of the *Fleet-Priſon*,

ſon, about the End of *July*, or Begining of *Auguſt*, 1729, about ſix of the Clock in the Morning, the Priſoners came to his Houſe in a Hackney-Coach, and knock'd him up out of his Bed; that the Priſoners propoſed to him the procuring a Perſon to marry the Priſoner *Whitney* in the Name of Mr. *Samuel Brooks*, and that they would give ten Guineas for the doing of it, which he refuſed, but refer'd them to one *John Floud*, who pretended to be, and acted as a Clergyman, and lived near this Witneſs's Houſe; that *Floud* was ſent for, and after ſome Diſcourſe the Priſoner *Whitney* pull'd out of her Pocket ten Guineas, which ſhe laid down on the Table; and the Priſoner *Thomſon* took them up, and gave them to this Witneſs, who carried it to *Floud*; that *Thomſon* follow'd, and inſiſted to have half the Money for bringing *Whitney* to the Houſe, but at laſt conſented to accept of four Guineas; three Guineas the Witneſs had for the Uſe of his Houſe, and the remaining three Guineas were given to *Floud*, who gave part of it to a Perſon, whom this Witneſs has ſince found to be one *William Gibſon*, a Sawyer, and who took on him the Name of *Samuel Brooks*, and was married by the ſaid *Floud* to the Priſoner *Whitney*. Being asked if he knew either *Brooks* or *Gibſon* at the Time of the Marriage, he anſwer'd No, but that

he came to the Knowledge of *Gibſon* ſoon after, he working as a Sawyer in the Neighbourhood of this Witneſs. Being asked alſo, if he was preſent at the Marriage, he anſwer'd No, for that he was order'd by the Priſoner *Thomſon* to make a Bowl of Punch; but that as ſoon as the Marriage was over, the Priſoner *Whitney* came down, and *Thomſon* and ſhe went away in the ſame Coach they came in. A Certificate being produced in Court of the Marriage of *Samuel Brooks* and the Priſoner *Whitney*, ſign'd *William Cox*, Miniſter, dated *March* 10th, 1728, this Witneſs was ask'd what he knew concerning the ſame; he depos'd that he ſaw *Floud* write the ſaid Certificate, and asking what he meant by Writing his Name *Cox*, he ſaid, he knew this Affair would ſometime or other come on the Carpet, and he would not have his Name mention'd. Being ask'd what was become of *Floud*, he anſwer'd Dead. Being queſtion'd as to any Declaration of *Thomſon* on *Floud*'s Death, he anſwer'd, that *Thomſon*, on hearing *Floud* was Dead, rejoyced and ſaid, Now nothing can hurt us.

The next Evidence call'd was *Mary Dickenſon*, who liv'd as a Servant with the firſt Witneſs at the Time of the pretended Marriage, who depos'd to the ſame Purpoſe with Mr. *Ball*, as to the Priſoner's coming

coming to her Maſter's Houſe in a Coach about the End of *July*, or the Begining of *Auguſt* laſt was Twelve Months: That *Floud* ſent out for *William Gibſon*, who marry'd the Priſoner *Whitney* by the Name of *Samuel*, that ſhe was preſent at the Ceremony; and that *Whitney* had a Mask on till *Floud* obliged her to pull it off, and that then ſhe had a black Patch on her Forehead, bound over with a white Cloth. Being ask'd how ſoon after ſhe came to the Knowledge of *Gibſon*, ſhe ſaid in about a Fortnight afterwards. Being ask'd if *Thomſon* was preſent at the Ceremony, ſhe anſwer'd no; that he waited below Stairs; and when the Marriage was over, went away with the Priſoner *Whitney* in the ſame Coach.

Richard Williams was call'd next, who depos'd he was a Servant Boy in the Houſe of Mr. *Ball*, and confirm'd the Evidence of other Witneſſes, in relation to the Priſoner's coming to his Maſter's Houſe in a Coach; that Mr. *Floud*, who was, or acted as a Clergyman, and liv'd near his Maſter's Houſe, was ſent for; and after ſome Diſcourſe betwixt the ſaid *Floud* and the Priſoners, the ſaid *Floud* ſent this Witneſs to *Robin-Hood's Court*, in *Shoe-Lane*, to bring to him one *William Gibſon*, a Sawyer, who came in a ſhort time; that on *Gibſons*'s coming,

Floud

Floud took him aſide, and after a ſhort Diſcourſe married him to the Priſoner *Whitney*, by the Name of *Samuel*, that this Witneſs gave her away as Father, and that ſhe had on a Mask; and when ſhe was obliged by *Floud* to pull it off, ſhe had on a Cloth over her Forehead. Being asked how he knew the Priſoner to be the ſame Perſon, he anſwer'd, ſhe had come ſeveral times afterwards to his Maſter's Houſe, and he by that means became well acquainted with her Face. Being asked if *Thomſon* was preſent when the Marriage was celebrated, he ſaid No, but that he went away in the ſame Coach they came in with *Whitney*.

The Council for the King then called Mrs. *Sabell Dudley*, at whoſe Houſe the Priſoner *Whitney* lived at the Time of the pretended Marriage, who depoſed, That on a Day, about the End of *July*, or Beginning of *Auguſt*, 1729, about ſix of the Clock in the Morning, the Priſoner *Thomſon* came to the Witneſs's Houſe, and deſired her to call up the other Priſoner *Whitney*; that ſhe refuſed, and told him he might go and call her himſelf; that he went up-ſtairs, and ſoon after came down with *Whitney*, and they went away together; that ſhe believ'd Mr. *Samuel Brooks* was then in Bed in *Whitney*'s Lodging; that about nine a-Clock *Whit-*

ney

ncy returned back, and then told the Witneſs, that ſhe had now done her Buſineſs with Mr. *Brooks*, for that ſhe was married to him, and had a Certificate of it, and ſhewed one to this Witneſs, who then told her ſhe was afraid ſhe had been doing ſome ill Thing, and would repent it: That the Priſoner *Whitney* told her, ſhe had once before got a Certificate without a *Marriage*, but that now ſhe was married, tho' not to Mr. *Brooks*, to a Perſon in his Name, and it would ſtand good.

Mrs. —— *Rea* depoſed, that being about *May* or *June* with the Priſoner *Whitney*, trying on a Suit of Cloaths, ſhe ſaid ſhe had now got a Certificate of her Marriage with Mr. *Brooks*, and that ſhe would make him know it; that this Witneſs told her, ſhe was afraid ſhe had done ſomething amiſs, and would be ſorry for it; that ſince the Confinement of the Priſoner *Whitney*, ſhe had been (tho' with great Reluctancy) to ſee her in *Newgate*, where ſhe (the Priſoner) made an open Acknowledgment of her Crime, owning ſhe was not married to Mr. *Brooks*: And being preſs'd by this Witneſs to throw herſelf on the Mercy of the Court, ſhe promiſed to do it; and ſaid that Rogue *Thomſon* had been the Ruin of her.

Eli-

Elizabeth Read, Servant to the Priſoner *Whitney*, depoſed, that ſome time in *July* or *Auguſt* laſt was twelve Months, the Priſoner *Thomſon* came on an Evening to her Miſtreſs's Lodgings, in the Houſe of Mrs. *Dudley*; and after ſome Diſcourſe together, *Thomſon* went away, and the Priſoner *Whitney* order'd this Witneſs to call her up at ſix in the *Morning*; that Mr. *Samuel Brooks*, who for ſome time had kept Company with the Priſoner, was then in the Houſe, and went about Mid-night very drunk to Bed; that the Priſoner went to Bed to him, and this Witneſs laid herſelf down in the Room, and put the Priſoner's Petticoats under her Head for a Pillow; that about ſix in the Morning the Priſoner waked this Witneſs, by pulling the Petticoats from under her Head, and biding her open the Door, the other Priſoner *Thomſon* was there; ſhe did, and both the Priſoners went away together; that the ſaid Mr. *Brooks* and this Witneſs were both locked up in the Room together by *Whitney*, who charg'd this Witneſs not to wake him; and if he did wake, to tell him ſhe *(Whitney)* would be at home immediately; that about 9 ſhe came back, and enquiring if Mr. *Brooks* had wak'd, and being told by this Witneſs he had not, ſhe then ſaid, when he did ſhe would let him know ſhe was married to him, and make him feel it too; that ſoon after Mr. *Brooks* awaking,

awaking, the Priſoner *Whitney* produced a Certificate to him, and told him ſhe was married, and he was her Husband; that Mr. *Brooks* denying it, ſhe immediately fell on him, and beat him to that Degree that his Noſe burſt out a bleeding. She and ſeveral other Witneſſes proved the Priſoner *Whitney*'s Declaration of her getting a Perſon to take on him the Name of Mr. *Brooks*, and marry her, and that it had coſt her ten Guineas.

In order to prove that Part of the Indictment, of the Priſoner's endeavouring to ſubject Mr. *Brooks* to the Payment of *Whitney*'s Debts, Mr. *Grene*, an Attorney, was called, who depos'd, That ſome time in *January* laſt *Whitney* applied to him, and deſired his Advice in what manner ſhe might moſt eaſily procure herſelf a ſeparate Maintenance from Mr. *Brooks*, on his Refuſal to live with her; that he recommending her to *Doctors-Commons*, as the propereſt Place, ſhe ſaid ſhe had there proceeded already as far as an Excommunication; that then, in order to eſtabliſh her Marriage by Proofs, ſhe propoſed an Action ſhould be brought againſt her, at the Suit of one *Frances Fletcher*, for 61 *l.* 18 *s.* that having occaſion ſoon after at her Requeſt, in order to take the Examinations of her Witneſſes, to be with her and the Priſoner *Thomſon*, at the *Fountain* Ta-

vern in *Catherine-ſtreet*, in the *Strand*, where *Thomſon* lived as a Drawer, the Priſoner *Whitney* expreſſing a Fear and Doubt of the ſaid Marriage being fully proved, *Thomſon* ſaid to her, Madam keep your own Counſel, nothing can hurt you; but damn it, you'll ſome time or other get drunk, and diſcover all; that theſe Words giving this Witneſs a Suſpicion of ſome Roguery, he refuſed to be farther concerned; that ſome time after the Evidence *Ball* had made a Diſcovery of the Truth, he (this Witneſs) meeting *Whitney* in the *Strand*, and going with her to a Tavern, ſhe then confeſs'd the whole Affair, but ſaid if *Ball* would ſtand by her, ſhe could get him 100 Guineas. Being asked by this Witneſs who put her on ſo vile an Action, ſhe ſaid that Rogue *Thomſon*, who told her he had got another Woman before a great Sum, by ſuch another Affair.

The Council for the King here reſted their Evidence, and Mr. Serjeant *Eyre* and Mr. *Theed*, on the Behalf of *Whitney*, open'd to the Jury, that ſhe was really married to Mr. *Brooks* on the 10*th* Day of *March*, 1728-9; and in order to prove it, produced two Letters ſent by Mr. *Brooks* to *Whitney*, in which were ſeveral Expreſſions of Love, but nothing as to the Marriage; and alſo a Receipt, the

Body

Body of which Mr. *Brooks* had wrote with his own Hand, and in which he ſtiled the Priſoner *Whitney* Mrs. *Lavinia Brooks*. They then proceeded to call other Witneſſes, to prove Mr. *Brooks*'s Acknowledgment of his Marriage. And Firſt,

James Delarant depoſed, that in *March* or *April*, 1929, he being a Drawer at the ſame Tavern the Priſoner *Thomſon* lived at, he was ſent with ſome Wine to *Whitney*'s Lodgings; that ſhe and Mr. *Brooks* were in Bed together, and *Whitney* putting her Hand out of Bed, this Witneſs perceived a plain Ring on her Finger, on which he ſaid he hoped he might wiſh her Joy; that Mr. *Brooks* ſaid, Yes, we are married, and that *Whitney* crying, *Brooks* ſaid, My Dear, don't cry, tho' we were married at the *Fleet*, I'll marry you again at Church if you deſire it; that the Priſoner *Whitney* then gave this Witneſs a Key, and bid him open a Trunk, and there was a Parchment, which this Witneſs took out and read, and was a Certificate of their Marriage.

The next Witneſs was the Cook-Maid of the Tavern, who depoſed to the ſame purpoſe as the other, but being asked as to the Certificate, ſaid ſhe knew nothing of the Matter.

One *Powell*, a Shoe-maker, was next called, who proved he had made Shoes for the Priſoner *Whitney*, and that about *March*, 1728-9, he heard Mr. *Brooks* had married her, and that accordingly from that time ſhe went by his Name.

In order to invalidate the Evidence of Mr. *Ball*, a Servant to Mr. *Sirrs*, a *Mercer*, on the Backſide of St. *Clement's* Church, was call'd, who depos'd, That the Priſoner *Whitney* wanting Credit for ſome Silks, and pretending to be married to Mr. *Samuel Brooks*, that the ſaid Mr. *Sirrs* not caring to truſt her till he was ſatisfied of her Marriage, *Ball* was ſent for, who produced his Regiſter, and ſaid he knew ſhe was married to Mr. *Brooks*; and that upon the Credit of *Ball's* Aſſertion, his Maſter gave her Credit for Silks to the Value of 35 *l.* This Witneſs being asked if he did not know, or ever heard that his Maſter would not truſt the ſaid *Whitney* with the Goods, unleſs ſhe left her Diamond Ear-rings as a Pledge, anſwer'd, he had heard it, and believ'd it might be true. This was confirm'd by Mr. *Ball*, and that the Ear-rings were worth about 25 *l.*

The next Witneſs called for the Priſoner *Whitney* was Mrs. *Frances Fletcher*, in whoſe Name the ſham Action

Action was to be brought, who depoſed to the ſame Purpoſe as Mr. *Sirr*'s Man; and the Council for *Whitney* calling only a few other Witneſſes to prove the Cohabitation, the Council for *Thomſon* open'd his Defence, and in it inſiſted ſtrongly on the Innocence of *Thomſon*, endeavouring to throw the whole Odium of the Crime on *Whitney*, but producing no Witneſſes to contradict any particular Fact charged on him, but only as to his good Behaviour as a Drawer in a Tavern, the Jury (after an impartial ſumming up of the Evidence on both ſides by the Honourable Mr. Baron *Thompſon)* withdrew, and in a few Minutes return'd, and brought in a Verdict that both the Priſoners were guilty of the Indictment.

The SENTENCE.

TO ſtand both in the Pillory, near the End of Bread-ſtreet, Cheapſide, *to ſuffer Six Months Impriſonment, pay a Fine of ten Marks each, and find Sureties for their good Behaviour for twelve Months afterwards.*

Ex. Emm.
10/24/02